

TOWN OF TOWNSEND
November 2, 2011
Council Meeting Minutes

7:30 pm – Council Meeting

I. Call to Order: 7:30 pm

II. Opening Ceremonies

- a. Roll Call: Mayor Steve High, Councilwoman Sandy Sturgis, Councilwoman Karen Jennings, Councilman John Ness, Councilman Dwain Haines, Attorney Fred Townsend, Engineer Tom Wilkes, Manager Dawson Green
- b. Pledge of Allegiance: Pledge was said.
- c. Recognition of Visitors: Seven (7) visitors signed in.

III. Additions/Deletions to Published Agenda:

- a. Budget under parks and rec was deleted from the agenda by general consensus.

IV. Council Minutes – October council minutes approved at workshop (copies on back table)

V. Unfinished Business

- a. Flags, put up for Veterans Day – Mayor Steve High
 - The US flags will be hung in Town on Wednesday, November 9, 2011 in honor of Veteran's Day. Any volunteers who would like to help are welcome.
- b. Town Hall Proposal – CW Karen Jennings
 - *CW Jennings motioned, CM Haines seconded to approve the proposal from RVB for engineering and design work on the new Town Hall for \$35,508.*
 - In the following discussion it was decided to table the motion to check the finances again to ensure a new Town Hall could be built.
 - *CM Ness motioned, CW Sturgis seconded with unanimous vote to table the discussion for the workshop on November 16, 2011.*
- c. Board of Adjustment (BOA), Zoning and Planning Committees – CW Sandy Sturgis
 - *CW Sturgis motioned, CM Ness seconded with unanimous vote to establish a committee to start recruiting interested residents to become a part of the above committees/boards. These committees are all recommendations within our comprehensive plan.*

VI. New Business: None

VII. Reports of the Officers

- a. State Police: Lt. LaMarche – Not present
- b. State Representative: Quinn Johnson – Not present
- c. Townsend Fire Department: Keith Shoemaker/Jeff Dawson
 - Ladies chicken and dumpling dinner coming up, keep an eye on the board for the date.

VIII. Reports

- a. Fred Townsend III, Attorney:
 - There was a general discussion about residents having a business they run from their home.
 - Fred said in his opinion he doesn't think they (residents) should be required to tell us what the process should be. If someone comes into the Town, we should have the attitude that we want to help, we may not approve their request in the end, but we can tell them what our policies are in respect to an applicant having a request for a home occupation. In the past, before Mr. Green was with us, we had requests like this, now it is Mr. Green's responsibility to address these issues and he isn't comfortable doing it. He is being quite responsible in asking Council to give him more formal direction.
 - Fred added that he doesn't think we should tell our applicants that we should ask Council what our application process is.
 - Mayor High said he feels the applicant should make the request and seek whatever guidance they need to put the request together. However, if you (Fred) feel we need to give Mr. Green that guidance, what I'm really looking for...
 - Sherry Rojas (resident) said if there is no written process for her to follow to put in a variance request, she has no way to write up her request. What we need is a process in place so when Mr. Green gets a phone call he can say "This is what you need to do".

- After more discussion, Fred said Mr. Green wants to know how to handle this application and his recommendation is to ask the applicant to submit a writing which will be an application to operate a home based business. We have an ordinance in place that we have relied on in the past which grants the authority to the Board of Adjustments to allow a home occupation under certain circumstances. Section 66-241 of our code of ordinances states in a residential district you may only do five things, none of which include operating a business, so the catering business would not be permitted in a residential district unless an applicant requests a special exception by the Board of Adjustments and meets the criteria included. One question that has come up is the application fee that has to be paid in advance of the Board of Adjustment hearing. Whenever the Board of Adjustment meets it incurs costs. There are notice requirements, letters must be sent, and there are legal fees and engineering costs, staff costs. The Town charges \$500.00 to cover some of these costs. The present application is not for a variance but a special exception, and I believe there is no distinction or difference in what the Board of Adjustment is doing, there is no less expense involved to have a special exception hearing than a variance hearing.
- Fred said Mr. Green did not want to charge a resident without getting formal direction from Council. I recommend they pay the fee. If you want to look at fees in general and reduce them or whatever, remember there are expenses to the Town and you want to recover that cost.
- CM Ness asked if Council needed to vote on this.
- Fred stated we only need general consensus from Council, not a vote.
- Tom added that we have a form that the Town uses and it isn't the first time we have had a Board of Adjustment question come up.
- CW Jennings asked if everything was clear in the ordinance.
- Fred stated the fee that the Town charges are not included in the ordinance. It is a separate policy that sets the fees and could certainly be revised if Council wishes.
- A resident stated that in her development, having a business in your home is not allowable per the deed restrictions.
- Fred stated the Town doesn't place deed restrictions on properties; they are imposed by prior owners and homeowners associations. The Town also does not enforce deed restrictions. Fred added that no one should submit an application for a special exception unless they can meet the criteria listed in the code, but just because you meet the criteria doesn't mean you will be granted the exception. The Board will look at everything and will decide if there are additional restrictions we will impose or permit you to have the business at all. Depending on what an applicant plans on doing, you might tell them to present appropriate licensing with the application.
- Mayor High asked if that they would provide all their licensing at the Board of Adjustment hearing.
- Fred said yes, at the hearing.
- Mayor High said we don't ask for it up front and he has a problem asking someone to pay \$500.00 up front and they can then say they weren't told they needed all the other stuff.
- Fred stressed that there is never a guarantee they will be approved. We as the Board don't know what all is involved until we talk to the applicant.
- There was a long discussion.
- Mayor High and Council agreed to have the applicant submit an application and a \$500.00 check to the Town Hall for a special exception,
- CW Jennings asked Fred if he could write an amendment for the ordinance.
- Fred said the only amendment we may need, which was Mr. Green's question, is charging residents the \$500.00 fee for a Board of Adjustment hearing.
- CW Jennings asked why the fee isn't part of the ordinance.
- Fred stated that sometimes fees are not part of an ordinance; fees are set after the fact.
- CM Ness motioned, CW Sturgis seconded with unanimous vote to have Mr. Green review the fees for variance and special exception hearings.
- In the following discussion it was decided there didn't need to be a motion for Mr. Green to review the fees, he will review them and give his recommendations to Council. The motion was withdrawn.
- Fred said there are three proposed uses for Cannery Lane; one was to operate some kind of cheerleading business which isn't an issue and needs no action. Second was a dog rescue usage proposal. It is pretty clear that the restrictions against that use would require a setback of I believe 250 feet. Occupants have told us the distance between the property line is only 65 feet. The occupant would have to pay the \$500.00 and go before the Board of Adjustment for approval before

moving forward with this. The third item is a request for outside storage which isn't a permitted use in any of our district at the present time. Do not believe this is an appropriate request for the Board of Adjustment. This is a request for a usage that isn't permitted anywhere. There isn't anything unique about the property, same as properties everywhere. A legislative action is being requested here, will Council permit this property to use outside storage or not. Council needs to decide on this as a separate item.

- Mayor High summed up Fred's recommendations as follows: Cheerleader business not an issue, the dog rescue must apply for a variance hearing requesting relief from setback requirements and the outside storage is up to Council to decide whether or not to permit it.
 - Fred recommended that Council amend the zoning codes if they decide to permit outside storage. This is a legislative action, not a variance request. To do this, Council would have to treat it like an ordinance and have public hearings.
 - Janette Redrow asked why Waste Management is permitted outside storage when it isn't permitted in Town.
 - Fred said he has been told there is some outside storage in Town (Waste Management included) that predates us adopting our zoning codes. They were grandfathered in. If there is a lot of that going on it may be in your favor to permit outside storage at your facility. There are different considerations for the Town to consider.
 - Mayor High said there is a lot of stuff outside down that road; don't know how long it has been there.
 - Tom stated that property is zoned industrial and we need to keep the industrial away from the residential.
 - CM Ness said we need to do something as soon as possible.
 - Mayor High said he would like Ms. Redrow to leave here tonight and know what she can and can't do.
 - After much discussion, Fred said at the next workshop we need to have an idea or some kind of proposal on whether we will allow outside storage, within a certain district, at all, or create conditional use with approval from Council. These are some options.
 - Mayor High said we will now wait for CW Sturgis to provide Council with recommendations on your zoning aspects and Council will bring it to a vote.
- b. Tom Wilkes, Engineer:
- The initial survey for the streetscape has been completed, it is in drafting and will be submitted to DelDot in the next couple days for final approval.
- c. Dawson Green, Town Manager:
- TM Green said the Boy Scouts will be participating in a food drive and going door to door asking for donations from November 12, 2011 to November 19, 2011.
 - CM Ness asked for an update on Wiggins Mill Road.
 - TM Green said Wiggins Mill Road has been paved and striped from the creek to just past Andy Street. The street lights have also been installed along Wiggins Mill Frontage Road.

IX. Committee Reports

- a. Finance Committee: Chair – Mayor Steve High
- Total Assets - \$3,845,035.37
 - Total Liabilities and Equity - \$3,813,962.15
- b. Streets Committee: Chair – CM Dwain Haines
- TM Green already discussed.
- c. Health & Public Welfare Committee: Co-chairs: CM John Ness & CM Dwain Haines
- There will be a nationwide emergency alert system test on November 9, 2011 at 2:00 pm. There are flyers on the back table. It is the first of its kind, will be a synchronized, simultaneous exercise across the entire nation.
- d. Energy & Environment Committee: Chair – CW Karen Jennings
- Townsend Wildlife Habitat Project
 - Astronomy Night in the Park – October 8, 2011 we participated in the international observe the moon night.
- e. Veteran Affairs Committee: Co-Chairs – CW Karen Jennings & CM Dwain Haines
- Project 19734 Soldier Support – care packages – CM Haines said he called again for addresses for our deployed 19734 soldiers. There is also a basket at the Town Hall for coupons for the soldiers

and their families and they can use coupons that are expired for up to six months. It is a great way to help them save money.

- f.* Police Committee: Chair – CM John Ness
 - Townsend Community Watch – If anyone has any issues please contact me and if you see anything suspicious please call the police.
- g.* Parks & Recreation Committee: Co-chairs - CW Sandy Sturgis & Mayor Steve High
 - NYE Party – December 31, 2011 @ Townsend Fire Hall
 - Budget – deleted from agenda

X. Announcements:

- a.* Nationwide Emergency Alert System test on Wednesday, November 9, 2011 at 2:00 pm – CM Ness already discussed this.
- b.* Town Hall closed Friday, November 11, 2011 (Veterans Day)
- c.* Town Hall closed Thursday and Friday, November 24 & 25 (Thanksgiving)
- d.* We will be hanging the Christmas lights in Town on Saturday, November 26, 2011. We are meeting at the Town Hall at 8:00 am. Volunteers are welcome.

XI. Citizens Comments & Participation

- a.* A resident asked when Anderson Homes is going to remove their sales trailer on Wiggins Mill Road.
- b.* CW Sturgis said they usually sell them.
- c.* TM Green said he has been trying to reach someone from Anderson Homes for a while.

XII. Adjournment: About 9:00 pm CW Sturgis motioned, CM Ness seconded with unanimous vote to take a 10 minute recess and go into executive session about personnel issues.
